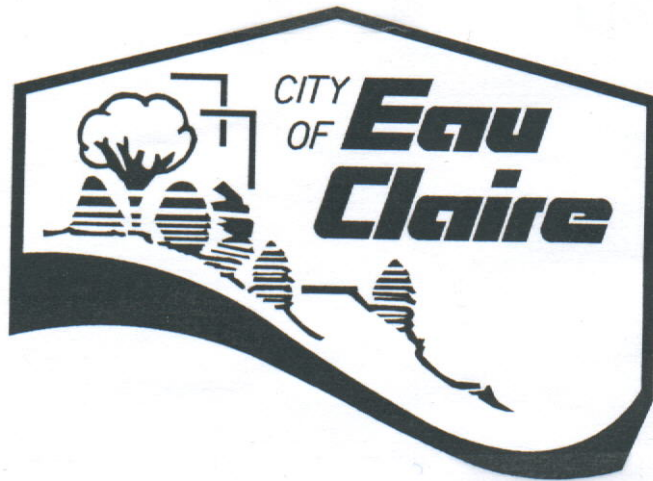


SPECIAL ASSESSMENT POLICY



**Adopted by Ordinance No. 2549 – September 28, 1955
Amended by Ordinance No. 5480 – February 14, 1995
Amended by Ordinance No. 5795 – February 10, 1998
Amended by Ordinance No. 5915 – February 9, 1999
Amended by Ordinance No. 5930 – March 9, 1999
Amended by Ordinance No. 6261 – February 12, 2002
Amended by Ordinance No. 6520 – June 22, 2004**

CITY OF EAU CLAIRE, WISCONSIN

SPECIAL ASSESSMENT POLICY

(Dated: June 22, 2004)

(Adopted by reference by Ordinance No. 6520 adopted June 22, 2004)

PURPOSE

The purpose of this Policy is to assure fair and equitable cost recovery for various public works improvements and to set forth a methodology determining the amount of the assessment for various categories of improvements and circumstances on a reasonable basis. It is the policy of the City of Eau Claire that all properties specially benefiting from public improvements pay their fair share of the cost of such improvements.

The policies contained herein are designed to serve as a general guide for the City Council in allocating benefit to properties. The City Council reserves the right to vary from these policies if the assessments derived by imposition of the policies creates obvious inequities, where the assignment of benefit to a particular property is difficult to determine, or because of extreme or unusual circumstances or for other good reason.

SPECIAL ASSESSMENT PROCEDURES

The City of Eau Claire adopts and makes a part of this policy by reference and incorporates the procedures for levying special assessments as contained in Wisconsin Statutes s. 66.0703 for all public improvements with the exception of sidewalk construction and repair. The construction, repair and replacement of sidewalk shall be governed by the procedures outlined in Wisconsin Statutes s. 66.0907. Whenever the provisions of this policy are contrary to those contained in ss. 66.0703, 66.0907, or other applicable provisions of the Wisconsin Statutes or administrative regulations, the Wisconsin Statutes or administrative regulations shall control.

All special assessments levied in the City of Eau Claire shall be grounded in the exercise of police powers for the health, safety and welfare of the public.

It is hereby determined that all properties lying within the incorporated boundaries of the City of Eau Claire receive similar benefit for similar categories of improvements and therefore the rates established for the levy of special assessment shall be applied on a uniform basis throughout the City, for the benefits received, regardless of the location of the improvements and the method of financing. In no case shall the total special assessments exceed the total cost of all improvements constructed as part of the annual Capital Improvement Program (CIP). For the purpose of this section the categories shall consist of Streets (CIP Fund 46), Storm Sewer (CIP Fund 48), Watermain (CIP Fund 64) and Sanitary Sewer (CIP Fund 65).

ASSESSMENT FORMULA

Special assessments may be computed and based on one of the following methods:

(A) ADJUSTED FRONT FOOTAGE METHOD

When this method is used, benefit is determined to be proportional to the front footage of the property. In the adjusted front footage method, odd-shaped lots and cul-de-sac lots are adjusted to an average frontage equivalent to the frontage of a rectangular shaped lot of the same depth. This method is declared and found to be more equitable than the simple front footage method and gives consideration to the depth and shape, as well as frontage on the street. The typical rectangular lot in the City of Eau Claire is hereby determined to be 66' wide by 132' deep for the purpose of calculating special assessments, in the absence of other demonstrated typical lot dimensions for a neighborhood.

Applying the Adjusted Front Footage Method

(a) Cul-de-sac Lots: For cul-de-sac lots the adjusted front footage is measured along the arc between the side lot lines calculated at the 30' setback line. If this method of calculation creates an inequity with the front footage of surrounding lots along the route of the improvements, then the odd shaped method or area method may be used to determine a fair and equitable adjusted front footage assessment that is comparable to similar lots in the neighborhood.

(b) Odd-shaped Lots: For odd-shaped lots, such as found on cul-de-sacs, pie shapes or triangular intersections, etc., the adjusted front footage is computed by dividing the area of the lot by 132' or the typical lot depth in the neighborhood, whichever is more appropriate.

(c) Approximately Rectangular Lots: For a lot that is approximately rectangular, the adjusted front footage is computed by averaging the front and back width of the lot. If the lot is deeper than 132', the width at the 132' depth is used for the back lot line width. This method is limited to where the divergence between the front and rear lot lines is ten feet or less, on lots with a straight frontage, and fifty feet or less on lots with an arc frontage.

(d) Rectangular Lots: For the normal rectangular lot, the adjusted front footage is the actual front footage of the lot.

(e) Shallow Lots: For rectangular lots less than 100' in depth, the adjusted front footage is determined by dividing the actual lot area by 132'. The shallow lot calculation is not intended for use on corner lots.

(f) Neck or Flag Lots: For lots which have a small frontage on a street, with a narrow strip running back 100' or less, an adjusted front footage is determined by dividing the actual lot area by 132'.

(g) Corner Lots: The front footage of the short side and long side of corner lots should be determined using one of the methods described in this section. The footage assessed will be based on the method for each category of improvement and the location of the improvements to be assessed. In those areas where the property lines of a corner lot meet with an arc rather than at a point, the frontage will be one-half (2) the arc measurement plus the length of the improved side.

(h) Double Frontage Lots: The assessment for double frontage lots will be based upon the first side served or for which access to the street is obtained. The assessments will be computed on the adjusted front footage method that conforms to the shape and size of the lot, except that if the lot is capable of division on a line roughly parallel to either of the abutting streets, into two or more lots upon which two or more principal buildings could be erected according to the regulations of the zoning district in which the lot is located, the assessment will then be for both sides when served and at the adjusted front footage formula as conforms to the size and shape of the resulting lot(s). If the lot is capable of division into two buildable lots, however, construction of existing buildings would prevent such subdivision, the second side assessment will be calculated on a footage equal to one-half (2) the adjusted front footage of the second side.

(B) AREA METHOD

The City Council may determine that an area method is a more appropriate means for computing benefits for a specific public improvement. In the case of improvements such as drainage, sewage pump stations, water booster stations, elevated water storage tanks, etc. for example, benefits would normally be more closely related to area than front footage.

The use of this method will require the establishment of a per unit cost for the specific improvement, which will then be multiplied by the net developable area of the lot. The developable area of the lot will be determined by calculating the area of the lot and subtracting that portion of the lot which is greater than 20% in slope or is within a designated storm water detention basin, waterway or wetland.

(C) LOT OR CONNECTION METHOD

The lot or connection method allocates costs and special assessments on the assumption that every lot or every connection to the public facilities receives the same benefit regardless of the difference in the size or shape of the lot. The use of this method is best suited where there is some uniformity of lots within the subdivision or neighborhood and there exists some uniformity as to the types of uses on the property. This method may be used at the request of petitioners for specific public improvements.

(D) BENEFITED ZONE METHOD

The benefited zone or district method will use the same methods as are followed for the adjusted front footage, area, lot or connection method, except that certain properties

that do not about the improvements receive benefit from the improvements. This method will typically be used in conjunction with special improvement districts and projects. The method of calculation of special assessment will be determined by Resolution, adopted by the Council, on a project specific basis.

STREETS

It is the policy of the City of Eau Claire to levy special assessments to recover a portion of the cost of constructing street improvements. The City Council establishes the assessment rates for street improvements. Annually the City Engineer will recommend adjustments in the special assessment rates based on roadway construction costs experienced the previous construction season.

(a) Grading and Gravel Base: The grading of a street and construction of a gravel base will be assessed by multiplying the adjusted front footage of the lot times the special assessment rate for grading and graveling. Property will only be special assessed once for the construction of grading and gravel.

(b) Street Improvement: Construction included in the Street Improvement category will be bituminous or concrete pavement, concrete curb and gutter, sidewalk, and boulevard restoration. The street improvement category will be assessed by multiplying the adjusted front footage of the lot times the special assessment rate for the-type of street pavement surface constructed.

The rate for the Street Improvement category is to be calculated by determining the previous years average cost to construct one lineal foot (1') of street 30 feet in width (face to face) with a 3-inch thick bituminous pavement or 7-inch thick concrete pavement, concrete curb and gutter on both sides, boulevard restoration on both sides (12-feet wide) and sidewalk on both sides (5-feet wide). To the construction cost shall be added a ten percent (10%) engineering and construction administration allocation to determine the street improvement cost. The street improvement cost shall then be divided by two (2) to determine the street improvement special assessment rate. The resulting per lineal foot special assessment rate shall then be applied to the abutting property in accordance with guidelines contained within the Special Assessment Formula section of this policy.

The Street Improvement assessment shall apply to all streets where new pavement is constructed or completely replaced in conjunction with concrete curb and gutter regardless of the actual width or thickness of the pavement or whether sidewalk is constructed or replaced as part of the project, provided that the cost of the assessments shall not exceed the annual cost of all improvements in CIP Fund 440 - Streets.

(c) Overlay: When an overlay is placed for the purpose of increasing the surface thickness and strength of the existing pavement and therefore adding significant service life to the roadway, special assessments will be levied. Work in this category includes the pulverizing and overlay of oil streets. The milling and overlay of asphalt or concrete on the

streets that have a pavement life longer than the “Expected Service Life” defined in paragraph (k) of this policy will be subject to special assessments.

The milling and overlay of a street with a pavement life less than the “Expected Service Life” defined in paragraph (k) of this policy will be considered a maintenance activity and not subject to special assessments.

The overlay of a street will be assessed by multiplying the adjusted front footage of the property by the special assessment rate for the overlay.

(d) Curb and Gutter (Repair and Street Widening): The construction or replacement of concrete curb and gutter will be included in the Street Improvement category (b) special assessment calculation. Spot repair of concrete curb and gutter will be special assessed at the actual cost for repair of curb and gutter, as included in the bid for the project under which the construction is completed.

Curb and gutter that is in good condition and is removed as part of the construction to facilitate widening of a street will not normally be special assessed. Special assessments will be made for only that frontage of curb and gutter that would have needed to be replaced, because of its condition, if the street had not been widened.

(e) Sidewalk: New sidewalk construction or complete replacement of existing sidewalk will be included in the Street Improvement category (b) special assessment calculation. Sidewalk repair shall be performed under the provisions of s.66.0907, Wisconsin Statutes. Spot repair of sidewalk will be special assessed at the actual cost for repair of sidewalk as included in the bid price for the project.

Sidewalk that is in good condition and is removed to facilitate construction of the street or to accommodate street widening will not normally be special assessed. Special assessments will be made for only that amount of sidewalk that would have needed to be replaced, because of its condition, if the street construction had not occurred.

(f) Driveway Aprons: The construction of driveways will be assessed by multiplying the actual square footage of driveway apron constructed by the rate established for the surface type and thickness of driveway apron constructed. The portion of driveway from the edge of the street to the right-of-way line will be used to compute the square footage to be special assessed. No assessments will be made for replacement of existing driveway located outside the street right-of-way that is required to be replaced to facilitate the matching of the existing driveway to the new street construction, except in those locations where an unimproved driveway surface is paved as part of the project. The cost of removing the existing driveway apron will not be special assessed.

Where concrete curb and gutter is existing or constructed, all driveway aprons shall be constructed of concrete between the curb and right-of-way line. A sidewalk section shall be constructed in all concrete drive aprons, even if sidewalk is not constructed as part of the project.

(g) Seal Coating: The City will bear the entire cost of seal coating and no special assessments will be made for this maintenance operation.

(h) Boulevard (Terrace) Restoration: For the purpose of this paragraph the word boulevard (terrace) means that area between the back of the curb and the sidewalk, or, in the absence of a sidewalk, the property line.

All boulevard (terrace) areas shall be constructed as a grassy area after completion of the concrete curb and gutter and maintained by the property owner in such condition thereafter. Such boulevards (terraces) shall be so constructed and maintained as not to be unsightly or unsafe. Every boulevard (terrace) shall be grass except for walkways and driveways, provided that the City Council may permit exceptions, by Resolution, to the requirement in appropriate circumstances of demonstrated need and hardship to the abutting property owner.

Boulevard (terrace) restoration, seeding or sodding will be included in the Street Improvement category (b) special assessment calculations. No assessments will be made for replacement of turf located outside the street right-of-way that is required to be replaced to facilitate the matching of the existing yard to the new street construction.

(i) Retaining Walls: When it is determined that the construction of retaining walls, as part of street improvements, has a shared benefit between the property owner and the City, in that the property owner usually has larger useable lot area than would be available in the absence of the wall. The cost of constructing a retaining wall will therefore be split, with 50% of the cost of constructing the first five feet (5') of height of the retaining wall special assessed to the abutting lot. The City will pay for 50% of the cost of the first five feet (5') of height and 100% of the cost above five feet (5') of height of a retaining wall. A retaining wall shall be assessed on a square foot basis for the amount of retaining wall constructed adjacent to the benefited property.

(j). Corner Lots: The benefit from street improvements to a residential property is derived on the street from which access can be obtained or a driveway is constructed. Assessments for street construction, on residential corner lots, will be charged at the time street improvements are completed on the side where a driveway exists or vehicular access is provided to the property. If driveways or access are on the short side of a residential corner lot, then the full length shall be assessed. If driveways or access are on the long side of a residential corner lot, the assessable front footage shall be adjusted to not be greater than the length of the short side of the corner lot. The flankage credit shall be a maximum of 132 feet. Where the long side adjusted front footage is greater than 132 feet in length, the assessment will be the adjusted front footage minus the maximum flankage credit of 132 feet. If driveways or access are on both sides of a residential corner lot, the assessments will be made for only the short side of the lot, and no assessments will be levied on the long side of the lot. On vacant residential corner lots, or lots that do not have an existing driveway or vehicular access on either street, the assessment shall be made at the time the street on the short side is improved. The residential corner lot flankage adjustment shall be applied to all street improvements with the exception of

driveway aprons. Corner lot flankage adjustments will not be provided for commercial or industrial lots because of the benefits provided by having a street on both sides.

Note: Effective Date - January 1, 2000.
Amended March 9, 1999

(k) Expected Service Life: Surface improvements are judged to have a normal useable life expectancy. For the purpose of this policy, the life expectancy for surface improvements is as follows:

Concrete Curb & Gutter - 30 years
Bituminous Pavement - 30 years
Asphalt Overlay - 10 years
Concrete Pavements - 40 years
Concrete Drive Aprons - 10 years
Sidewalk - 10 years

Should a street require resurfacing before the end of the expected service life, the abutting properties shall be assessed on a prorated basis. For example, should a bituminous street require resurfacing after 15 years, the abutting property would only be assessed at one-half (1/2) of the applicable rate.

(l) Alleys: The typical alley in the City is one-half (1/2) the size of a local street. Alleys provide access to the abutting property and improvements to an alley are therefore considered a special benefit, subject to special assessments. Special assessments for alley improvements shall be on an adjusted front footage basis at one-half (1/2) the rate established for the type of improvement completed.

WHITEWAY & DECORATIVE LIGHTING

The special assessments for whiteway lighting will be determined by multiplying the per foot cost of constructing a whiteway lighting system times two-thirds (2/3) times the adjusted front footage for the lot. The City will pay one-third (1/3) of the cost of constructing a whiteway lighting system.

The special assessments for a decorative lighting system will be determined by multiplying the per foot cost of constructing the decorative lighting system times the adjusted front footage for the lot. Unless otherwise determined by the City Council, the property owners will be expected to pay 100% of the cost of constructing a decorative lighting system.

The maintenance and operation of the whiteway lighting system will be assessed against the abutting property owners on an adjusted front footage basis. The assessment for maintenance and operation shall be considered as a charge for current services and levied to be collected in one (1) annual installment.

As to residential property, all of the assessment payments for the cost of installation of a whiteway lighting system will be deferred, without interest, until the property use becomes commercial or industrial. Assessments for power and maintenance will be charged in the year in which the use of the property is converted from residential to commercial or industrial use.

STORM SEWER

The cost of installing storm sewer will generally be paid for from the general fund or from a storm water utility fund. The City Council reserves the right to establish a benefit zone or drainage district for the purpose of levying special assessments to properties lying within the drainage basin, on an area basis, for storm water improvements.

Storm water improvements subject to special assessments will require a resolution of the City Council establishing the boundaries of the benefit zone and drainage district and determination of the assessment rate on a project specific basis.

SANITARY SEWER

Special assessments for sanitary sewer main will be on an adjusted front footage basis. The rate shall be determined by using the total cost of the previous year's sanitary sewer main construction work, including engineering and inspection. The cost of construction to be used to establish the assessment rate shall be based upon the construction of an 8" sanitary sewer, which is considered the minimum required to provide municipal sewer service to a residential lot. The City Council may use the area method or benefited zone method for specific sanitary sewer improvements in commercial and industrial areas and in those circumstances where its use would create special assessments that more accurately reflect the benefits to the property.

The adjusted front footage for corner lots shall be modified to only assess the short side of the lot for sanitary sewer main construction. If sanitary sewer is constructed on both sides of a corner lot, no special assessment may be made on the long side of the lot, regardless of the side of the lot on which the service lateral is constructed. For large tracts or undivided property the long side credit is limited to the typical lot dimensions established in this policy.

The cost of constructing a sanitary sewer service lateral shall be imposed for each lateral constructed based on the size of service lateral installed, calculated according to the previous year's actual cost of service lateral construction, including engineering and inspection.

When any existing sanitary sewer facility is ordered to be renewed or replaced, no assessments will be levied for the reconstruction or repair. Assessments will be levied for

cost to upgrade the service level, such as; replacing a 4" service lateral with a 6" service lateral.

WATERMAIN

Special assessments for watermain will be on an adjusted front footage basis. The rate shall be determined by using the total cost of the previous year's watermain construction, including engineering and inspection. The cost of construction to be used to establish the assessment rate shall be based upon the yearly cost of an 8" main, which is determined to be the minimum required to provide municipal water service to a residential lot. The City Council may use the area method or the benefited zone method for specific water improvements in commercial and industrial areas and in those circumstances where its use would create special assessments that more accurately reflect the benefits to the property.

The adjusted front footage for corner lots shall be modified to only assess the short side of the lot for watermain construction. If watermain is constructed on both sides of a corner lot, no special assessment may be made on the long side of the lot, regardless of the side of the lot on which the service lateral is constructed. For large tracts or undivided property the long side credit is limited to the typical lot dimensions established in this policy.

The cost of constructing a water service lateral shall be imposed for each lateral constructed based on the size of service lateral installed, calculated according to the previous year's actual cost of service lateral construction, including engineering and inspection.

When any existing water facility is ordered to be renewed or replaced, no assessment will be levied for the reconstruction or repair. Assessments will be levied for cost to upgrade the service level, such as; replacing a 3/4" service lateral with a 2" service lateral.

CURRENT SERVICES

The City will levy special assessments to allocate all or a part of the cost of providing current services, as provided for in Wisconsin Statutes s. 66.0627. Current services include, but are not limited to, snow and ice removal, weed cutting, repair of sidewalk or curb and gutter, sewer and water services, tree care, condemned building removal and delinquent utility billings.

MISCELLANEOUS PROVISIONS

It is the intention of this section of the policy to clarify special circumstances, which may arise in establishing the benefit to lots as a result of public improvements completed by the City of Eau Claire.

(a) The policies set forth in this document do not alter the requirements of the City Subdivision Code with regard to the developer's responsibility to provide and pay for required improvements.

(b) Pursuant to Wisconsin Statutes s. 66.0911 the City requires that the assessment for water and sewer service laterals shall be charged as a lien against the lot or parcel served.

(c) The City of Eau Claire shall special assess improvements to railroad property as permitted by the Wisconsin Statutes, except as may otherwise be determined by the City Council.

(d) Where land is owned by a public utility and is used only by the utility for transmission line or other easement type uses, the utility shall be assessed at the full rate only where the depth of the land is 120 feet or more. A reduction in the rate of 1% for each 2 feet of land depth less than 120 feet shall be made.

If during the 10 years immediately following the date of the resolution levying the special assessments, the use of the affected utility land is changed to another use or the depth of the land is increased, the City may reopen and reconsider the assessment, according to Wisconsin Statutes s. 66.0703(10), based on the new usage or depth, and assess the difference between the original and revised amount.

(e) Under the authority granted by s. 66.0715(2), Wisconsin Statutes, the City Council may grant deferments of the due date of special assessments levied for public improvements upon such terms and in such manner as prescribed by the City Council and while no use of the improvement is made in connection with the property, or for so long as the property remains undeveloped.

Pursuant to s. 66.0413, Wisconsin Statutes, if a tax certificate is issued under s. 74.57, Wisconsin Statutes, for property which is subject to a special assessment that is deferred under this paragraph, the amount of any deferred special assessments are due on the date that the tax certificate is issued and are payable as are other delinquent special assessments from any moneys received under ss. 75.05 or 75.36, Wisconsin Statutes.

(f) Improvements to property outside the City limits of Eau Claire, which abuts the City, will be special assessed under the provisions of Wisconsin Statutes s. 66.0707, which allows a City to assess abutting property in an adjoining City, Village or Town if the adjoining local jurisdiction approves by resolution such special assessment levy.

If such an agreement cannot be obtained or is not feasible, then a connection fee will be charged at such time as the property is annexed to the City and facilities are available for use by the abutting property. The connection fee, equivalent to the adjusted front footage or area assessment, will be based on the rates in place at the time of the original construction or the rates from 10 years previous to the annexation, if the original construction is more than 10 years old. Connection fees for utility construction shall also include the cost of all grading, street resurfacing and construction. Connection fees may be paid in installments as provided in Section 3.16.020 of the Eau Claire Code of Ordinances.

(g) Street improvements constructed along a frontage road, with one side of frontage directly abutting a highway, shall be assessed at the rate of 1.0 times the established rate, if the construction of the frontage road is constructed by the Department of Transportation using State or Federal funding. If the frontage road is constructed completely with City funding, the property shall be assessed at the rate of 1.5 times the established rate for the improvements constructed.

(h) When an improvement requires the acquisition of additional right-of-way which results in creation of corner lots, which were not corner lots prior to the initiation of the improvement, there will be no special assessments levied to the newly created fronting footage.

(i) Special assessments may be paid in the following annual installments for the type of improvement completed:

<u>Type</u>	<u>Years Spread</u>
Grading & Gravel	10
Street Paving	10
Bituminous Overlay	10
Curb & Gutter	10
Sidewalk	10
Driveway Aprons	10
Boulevard (Terrace) Rest.	10
Retaining Walls	10
Whiteway & Decorative Lighting	10
Whiteway Power & Maintenance	1
Sanitary Sewer & Services	10
Watermain & Services	10
Diseased Elm Tree Removal	5
Current Services	1

The payment of special assessments in installments may be extended over 20 years in the case of demonstrated hardship as outlined in Chapter 3.16.010 of the City Code and Ordinance No. 5108, adopted by the City Council on December 11, 1990. Said Ordinance is hereby included in this policy by reference.

SPECIAL ASSESSMENT POLICY
City of Eau Claire, Wisconsin

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